

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON THE STATUS OF VARIOUS MOTIONS**

There are various motions currently pending in this docket that, in effect, request changes to the text of previously-issued decisions. In the interest of justice and efficiency, I am going to rely upon Rule 45(i) of the Commission's Rules of Practice and Procedure in order to treat these motions as if they were petitions to modify the decisions. There are two fundamental consequences stemming from this choice. First, in the case of the motions filed by the Pacific Gas and Electric Company (PG&E), I will direct the utility to file and serve additional information consistent with our Rule 47, which governs petitions for modification. As for the two pending motions filed by third-party providers, because the requests are very straight-forward, I will discuss, below, my understanding of the changes being sought, and require a response from the moving parties only if I have it wrong. Second, because only the Commission can change a decision in the absence of an express delegation, I will submit my recommendation to the Commission in the form of a draft decision. This means that it will be some weeks before each motion is fully resolved. I will try to expedite this process as much as possible.

The motions at-issue are as follows:

1. The Amended Motion of PG&E for Authorization to Transfer Unused Prior Year Funds to the Public Purpose Programs Energy Efficiency Balancing Account (June 30, 2005)
2. The Amendment of PG&E to Its Motion for Expedited Authorization to Shift Energy Efficiency Program Funds (July 6, 2005)
3. The Motion of the Alliance to Save Energy to File For No-Cost Extension of the 2004-2005 Energy Efficiency Program Proposal (June 10, 2005)
4. The Motion of D&R International and California Integrated Waste Management Board for Transfer of Funds Between School Energy Efficiency Programs

PG&E

Related to its motions, PG&E shall submit the information normally required for a petition for modification under Rules 47(b) and 47(d).

Alliance to Save Energy

Related to the motion of the Alliance to Save Energy, I am assuming that this group is seeking the following changes to Decision (D.) 03-12-060:

1. The addition of a Finding of Fact stating: “The Green Schools and Green Campus programs awarded funding in this order are programs that function best when they can operate within an academic year (September to June).”
2. The addition of a Conclusion of Law stating: “Funding for the Green Schools and Green Campus programs should be extended through June 2006 in order to allow the programs to function effectively during the 2005-2006 academic year.”

3. The addition of an Ordering Paragraph stating: "Funding for the Green Schools and Green Campus programs shall be extended through June 2006 in order to allow the programs to function effectively during the 2005-2006 academic year."

D&R International

In relation to the motion of D&R International, I am assuming that this organization is seeking the following changes to D.03-12-060:

1. The addition of a Finding of Fact stating: "The School Energy Efficiency program proposed by D&R International, Ltd is sufficiently similar to the California Integrated Waste Management Board's (CIWMB) 2002 – 2004 School Energy Efficiency program (CPUC Program #177-02) to merit utilizing any of its unspent funds."
2. The addition of a second Finding of Fact stating: "In order to fully utilize opportunities related to the 2005-2006 academic year, it would be most effective to allow use of funds by The School Energy Efficiency program proposed by D&R International, Ltd through June 2006."
3. The addition of a Conclusion of Law stating: "The School Energy Efficiency program proposed by D&R International, Ltd should be allocated any remaining funds related to the California Integrated Waste Management Board's 2002 – 2004 School Energy Efficiency program (CPUC Program #177-02) and should be allowed to use any of its funding through June 2006."
4. The addition of an Ordering Paragraph stating: "The School Energy Efficiency program proposed by D&R International, Ltd shall be allocated any remaining funds related to the California Integrated Waste Management Board's 2002 – 2004 School Energy Efficiency program (CPUC Program #177-02) and may use any of its funding through June 2006."

Additional Procedural Issues

All parties to this proceeding have had notice of the pending motions and an opportunity to be heard in response to those motions. I have received no responses. Although I am now considering these motions as if they were petitions for modification, in order to secure just, speedy, and inexpensive determination of the issues presented, I am not going to establish an additional comment period. However, PG&E shall submit further amended motions with the additional information I have requested. I ask PG&E to do so as soon as possible. In addition, the Alliance to Save Energy and D&R International should notify me promptly through amended motions if my assumed modifications are incorrect. However, I am not interested in having either party file any unnecessary comments or motions.

Finally, all parties should be aware of the limitations on my ability to resolve substantive matters through rulings. Pursuant to Ordering Paragraph 11 of D.03-12-060, the ALJ is delegated to resolve motions in which a utility seeks authority to transfer more than 25% of one 2004-2005 program's funds into another program in the same category. Ordering Paragraph 13 of the same decision delegates to the ALJ in consultation with the Energy Division and the Assigned Commissioner the approval of a plan for the conduct of evaluation activities related to statewide and local programs, including ongoing and new

studies. I am aware of no other delegations. Anyone seeking other types of program or funding changes must file a petition for modification of a prior decision, or be prepared to cite language in a commission decision making a clear delegation to the ALJ for that purpose.

IT IS SO RULED.

Dated July 21, 2005, at San Francisco, California.

/s/ STEVEN WEISSMAN

Steven Weissman
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on the Status of Various Motions on all parties of record in this proceeding or their attorneys of record.

Dated July 21, 2005, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.